

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**ROBBIN L. THOMPSON,**

**Plaintiff,**

**VS.**

**JO ANNE B. BARNHART,**  
**Commissioner of Social Security**

**Defendant.**

**CIVIL ACTION 05-00447-CG-B**

## ORDER

This cause is before the court on the Report and Recommendation of the Magistrate Judge (Doc. 22) and the defendant's objection thereto (Doc. 23). The Magistrate Judge "recommended that the decision of the Commissioner of Social Security, denying Plaintiff's claim for disability insurance benefits and supplemental security income" be reversed and remanded. (Doc. 22 at 21). Upon a de novo review of the Report and Recommendation to which objection is made, the court agrees with the findings of the Magistrate Judge and finds that the defendant's objection is due to be denied.

Defendant’s objection to the Magistrate Judge’s Report and Recommendation contends that the Administrative Law Judge (hereinafter “ALJ”) properly discounted the treating physician’s report because of insufficient objective medical evidence. (Doc. 23 at 2-3). Defendant suggests that “given the inconsistencies in the record, the ALJ was permitted to disbelieve Plaintiff’s subjective complaints of disabling limitations.” (Id. at 3). In view of the facts and circumstances of the plaintiff’s case, the undersigned agrees with the Magistrate Judge’s Report and Recommendation that based upon the totality of the evidence presented, the

ALJ's discounting of Dr. Fleet's opinions was not based on substantial evidence. Accordingly, "the ALJ should reassess Plaintiff's credibility giving due consideration to the need to go beyond objective medical evidence in properly evaluating such cases." (Doc. 22 at 21).

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo review of the Report and Recommendation, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. §636(b)(1)(B) is **ADOPTED** as the opinion of this court. It is **ORDERED** that this action is hereby **REMANDED** to the Commissioner of Social Security for further proceedings consistent with the opinion.

**DONE and ORDERED** this 8<sup>th</sup> day of February 2007.

/s/ Callie V. S. Granade  
CHIEF UNITED STATES DISTRICT JUDGE